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Preserving America's Heritage

**Testimony for the Record by
Milford Wayne Donaldson, FAIA,
Chairman, Advisory Council on Historic Preservation,
To the Subcommittee on Federal Lands,
House Committee on Natural Resources,
Regarding the National Historic Preservation Amendments Act (H.R. 2817)**

February 9, 2016

The Advisory Council on Historic Preservation (ACHP) welcomes the opportunity to share its views with the Subcommittee regarding the National Historic Preservation Amendments Act (H.R. 2817). The ACHP is an independent federal agency that promotes the preservation, enhancement, and sustainable use of our nation's historic resources. Created by the National Historic Preservation Act (NHPA) in 1966, the ACHP is charged with advising the President and Congress on national historic preservation policy. The ACHP membership, the majority of which is appointed by the President, is made up of federal agencies, preservation experts, concerned citizens, a mayor, a governor, and major preservation non-profit organizations.

As discussed below, the ACHP strongly supports H.R. 2817. Reauthorization of the Historic Preservation Fund as called for in the bill is critical to the functioning of the national preservation program. Its importance is such that the ACHP urges the Subcommittee to consider permanent authorization rather than the 10 year reauthorization called for in the bill. The ACHP also recommends that the Subcommittee explore the opportunity presented by H.R. 2817 to address two other amendments to the NHPA that would enhance the effectiveness of the ACHP as well as the national preservation program – conversion of the current part-time status of its chair to full-time and extension of voting membership on the ACHP to the General Chairman of the National Association of Tribal Historic Preservation Officers (NATHPO).

Reauthorization of the Historic Preservation Fund.

In 1976, Congress established the Historic Preservation Fund (HPF) to support the delivery of programs mandated by the NHPA. The HPF is funded by Outer Continental Shelf oil and gas revenues, based on the sound concept that a portion of the monies generated by the depletion of non-renewable resources should be reinvested in the conservation of other non-renewable resources, namely historic properties. Administered by the National Park Service, the HPF is the source of program funds that are dispersed as grants-in-aid to State Historic Preservation Offices (SHPOs) and to Tribal Historic Preservation Offices (THPOs). HPF monies also support more than 1,900 Certified Local Governments (CLGs), those local governments whose preservation programs have been endorsed by the state and the National Park Service as meeting certain criteria. HPF matching grants to SHPOs, THPOs, and CLGs serve as catalysts for preserving and protecting our Nation's irreplaceable heritage without expending tax dollars.

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The HPF funds a variety of activities carried out by SHPOs, THPOs, and CLGs, forming the backbone of preservation activity in the nation. Such activities include conducting surveys of historic properties; preparing nominations to the National Register of Historic Places; reviewing the impact of federal projects on historic properties; assisting in federal Historic Tax Credit project reviews; implementing disaster recovery grants; and conducting preservation education and planning. Funds from the HPF ensure that SHPOs, THPOs, and CLGs have resources to enable them to address protection of historic properties in the context of important national priorities, including energy development and infrastructure permitting, disaster planning and resilience, climate change adaptation, community revitalization, military readiness and national security needs, and public lands management.

The HPF also has been the source for important targeted grant funds to nongovernmental organizations. In FY 2014 through FY 2016, Congress appropriated funds from the HPF for a grant program to help increase the number of listings in the National Register of Historic Places associated with currently underrepresented communities, including African Americans, Latinos, Asian Americans, and LGBT Americans. In FY 2016, \$8 million was appropriated from the HPF for grants to preserve the sites and stories of the Civil Rights Movement.

The HPF provides vital funding support to the partnership between federal, state, tribal, and local governments that is working to preserve historic properties nationwide. The ACHP urges the Subcommittee to support H.R. 2817. However, given the HPF's 40-year track record of success, the ACHP recommends that the Subcommittee advance a permanent authorization rather than the 10-year reauthorization called for in the bill. The programs funded by the HPF are mature and well integrated into state, tribal, and local government participation in the national historic preservation program. Permanent authorization of the fund would remove the uncertainty associated with periodic reauthorization. Permanent authorization of the HPF this year – which marks the 50th anniversary of the NHPA – would be both appropriate recognition of that milestone and a statement of the federal government's continued commitment to assisting states, tribes, and local communities in preserving the rich heritage of our nation for future generations.

Enhancing the Effectiveness of the ACHP and the National Preservation Program.

Given that the Congress will be undertaking amendments to the NHPA to achieve reauthorization of the HPF, the ACHP would like to draw the committee's attention to another matter that warrants action. This affects the composition and leadership of the ACHP.

Since the Congress established the ACHP in 1966 as part of the NHPA, both the national historic preservation program and the ACHP have matured and grown dramatically. Preservation has become a mainstream movement as the nation's communities experience the renewal of historic downtowns and neighborhoods. Preservation strategies enable citizens to enjoy historic resources in rural areas and on public lands. The national historic preservation program has recognized over a million historic properties, making them eligible for federal tax credits, grants, and protection. Preservation tools and techniques make historic properties a living part of contemporary America, creating jobs and economic growth while saving important places of the past. The core partnership of all levels of government and the private sector is uniquely American and underlies the success of the program, which has been strengthened and expanded by the Congress and the Executive Branch repeatedly over nearly five decades.

Likewise, the ACHP has evolved and matured during the past half century. Initially an adjunct of the National Park Service (NPS), the Congress made the ACHP an independent federal agency in 1976. At that time, it authorized the ACHP to issue regulations to guide federal agencies in meeting their obligations to consider the impacts of their actions on historic properties. Today over 125,000 federal actions a year are reviewed in accordance with the ACHP's regulations, providing citizens, state and local

governments, and tribal nations a voice in federal planning and decision-making. In 2007, the Congress gave the ACHP a permanent appropriations authorization. In 2009, it entrusted the ACHP with additional program responsibilities with regard to designating Preserve America Communities and consulting with the Secretary of the Interior to provide grants to those communities. This legislation codified the first government-wide, White House-led historic preservation initiative, which had been created and managed by the ACHP.

The ACHP's advisory duties have similarly become more impactful. Fulfilling its initial 1966 legislative charge to advise the President and the Congress on historic preservation matters, the ACHP has assumed an increasingly important role in shaping government policy affecting the nation's patrimony. As the sole federal agency with the exclusive mission of promoting historic preservation, ACHP input is regularly sought by Administration leadership on issues of national importance. The ACHP is a standing member of cabinet-level councils and committees dealing with such subjects as infrastructure development, climate change adaptation, and tribal affairs. In 2003, the President issued the Preserve America Executive Order, drafted by the ACHP, to improve the stewardship of federal historic properties. It directed the ACHP to regularly assess how federal agencies manage their historic properties and make recommendations triennially to the President for improvement.

While the ACHP has assumed an active role in the formulation of national policy and the implementation of critical federal programs, its leadership structure remains unchanged since 1966. The head of the agency, the ACHP Chair, is a part-time presidential appointee. Day-to-day operations of the ACHP are entrusted to an executive director, designated in the original NHPA to be the Director of the NPS. In 1976, when the Congress made the ACHP an independent agency with its own staff, it made the executive director an ACHP career employee. The position is now in the career Senior Executive Service.

The existing arrangement presents the anomaly of an independent federal agency with important programmatic and policy formulation responsibilities being effectively led on a daily basis by a career employee supervised by a policy-level Chair who is part-time and often geographically remote. Lacking are the opportunities inherent in a full-time presidentially-appointed position, located in the Nation's capital, to participate on a regular basis as an equal member of Administration leadership. This diminishes the effectiveness of the ACHP as a voice in national policy deliberations and lessens the national role of historic preservation, contrary to the original intent of the Congress.

Several studies over the past decade have singled this out as a deficiency in the federal program structure. In 2006, a panel of preservation experts convened as part of the Preserve America Summit recommended consideration of a full-time Presidential appointee to lead the ACHP. Acting in response, ACHP and Department of the Interior leadership jointly convened an expert panel in 2009 to evaluate the structure of the federal historic preservation program. Its priority recommendation was that the ACHP should have a full-time chair appointed by the president, a recommendation subsequently endorsed by the ACHP membership. In 2011, a special "Federal Historic Preservation Program Task Force," comprised of leaders of the major national historic preservation organizations, conducted an extensive study of ways to increase the effectiveness of the federal historic preservation program. Among other things, it supported the earlier recommendation for a full-time ACHP chair. The ACHP membership unanimously endorsed the Task Force recommendations, echoing their prior action.

The ACHP also seeks to advance the interests of Native Americans by providing formal representation for the nation's Tribal Historic Preservation Officers (THPOs). In 1992, Congress amended the NHPA to authorize tribal historic preservation programs certified by the Secretary of the Interior and created THPOs, with functions that are parallel to those of State Historic Preservation Officers (SHPOs) within their respective jurisdictions. Like SHPOs, THPOs are responsible for coordinating preservation programs in accordance with federal standards and with federal matching grant support. Recognizing the

importance of SHPOs in the national program, the Congress added the President of National Conference of SHPOs (NCSHPO), the SHPO national non-profit organization, as a member of the ACHP in 1980.

While the NHPA provides for a presidentially appointed Native American or Native Hawaiian member, there is no formal voice for THPOs, who are tribal government officials, on the ACHP. Given that NATHPO is the THPO equivalent of NCSHPO, the ACHP invited the General Chairman of NATHPO to become an observer on the ACHP in 1998. The growing importance of THPOs in the program (there are currently 160 and eventually most of the 565 federally recognized Indian tribes could have certified THPOs) now justifies providing NATHPO with full membership on the ACHP, comparable to its state counterpart.

Simple administrative changes in the ACHP's authorizing legislation can achieve both of these objectives. The Chairman of the ACHP has recently submitted a draft bill to the Subcommittee that would carry this out. Combined with a permanent authorization for the HPF, this action would continue the Congress' longstanding commitment to strengthening the program to preserve and enhance our irreplaceable heritage, a fitting achievement for the 50th anniversary of the NHPA in 2016.